

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|---------------------------|---|------------------------|
| In re: |) | Chapter 11 |
| |) | |
| FLEMING COMPANIES, et al. |) | Case No. 03-10945(MFW) |
| |) | |
| Debtors. |) | Civ. No. 06-610-SLR |

NOTICE OF OBJECTION TO HAVING THE CLAIM OF LEON LABATE
DISALLOWED FOR LACK OF PROSECUTION TO BE HEARD BEFORE
THE HONORABLE SUE L. ROBINSON, UNITED STATES DISTRICT JUDGE
TUESDAY, JANUARY 9, 2007 AT 10:00 A.M. IN COURTROOM 6B
OF THE FEDERAL BUILDING, 844 KING STREET, WILMINGTON, DELAWARE.

1. I am an Attorney at Law of the State of New Jersey and an associate with the firm of Hack, Piro, O'Day, Merklinger, Wallace & McKenna, P.A., attorneys for plaintiffs/claimants, Leon and Patricia Labate, in the above captioned matter.

2. I am personally entrusted with the handling and management of the within matter and have personal knowledge of the matters hereinafter set forth.

3. On December 19, 2006, I personally spoke with Fleming Companies' bankruptcy counsel, Scotta E. McFarland, Esq. of Pachulski, Stang, Ziehl, Young, Jones and Weintraub advising we are actively pursuing our client's claims.

4. On the same date, I personally spoke with Beauchamp M. Patterson, Esq. of McAfee & Taft, who represents the Post Confirmation Trust of the Debtor, Fleming Companies, Inc. On December 20, 2006, I forwarded via Federal Express the requested information in order that Debtor may fully evaluate our client's proof of claim. We are actively prosecuting the claim.

5. For the foregoing reasons, we respectfully request that our client's proof of claim

be allowed to continue through the legal process and the Debtors' request to have the same disallowed denied.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

S/ Michael J. Leegan (ML1740)
HACK, PIRO, O'DAY, MERKLINGER,
WALLACE & MCKENNA, P.A.
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P.O. Box 941
Florham Park, NJ 07932-0941
(973) 301-6500
Fax: (973) 301-0094

Dated: December 20, 2006

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CERTIFICATE OF SERVICE.

.It is hereby certified that on the 20th day of December, 2006, a copy of the within Notice of Objection was served upon Scotta E. McFarland, Esq., of Pachulski, Stang, Ziehl, Young, Jones and Weintraub, 10100 Santa Monica Boulevard, 11th Floor, Los Angeles, CA 90067-4100, attorneys for debtors, Fleming Companies, et al., and Beauchamp M. Patterson, Esq., of McAfee & Taft, P.C., Two Leadership Square, 10th Floor, 211 North Robinson, Oklahoma City, OK 73102-7103, attorneys for the Post Confirmation Trust of Debtor, Fleming Companies, Inc., via regular mail as prescribed by the Federal Rules of Civil Procedure.

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